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FEDERAL ELECTION  
COMMISSION

Mr. Jeff S. Jordan  
Assistant General Counsel  
Federal Election Commission  
Office of Complaints Examination and Legal Administration  
Attn: Kim Collins, Paralegal  
999 E Street, NW  
Washington, DC 20436

Re: MUR 6901

Dear Mr. Jordan:

This office has been retained to represent Buck for Colorado and Ms. Cheryl Klein, Treasurer of Buck for Colorado, in connection with a complaint filed by Vic Meyers for Congress, the campaign committee of Congressman-Elect Buck's opponent in the November 4, 2014 election (MUR 6901). Based on the facts and analysis presented below, the Federal Election Commission ("Commission") should take no further action in connection with this matter.

### Allegation I a

The complaint alleges that the disclaimer in the Buck for Colorado radio spot, "A Great America", identified "Buck for Congress" rather than "Buck for Colorado". On October 27, 2014 the Buck campaign received a copy of the Meyers' campaign press release announcing the filing of a complaint with the Commission. After reviewing the press release, the Buck campaign immediately checked the radio ad, recorded a new disclaimer and sent the revised spot to the twelve radio stations that were airing it. The stations had the replacement spot by 10:00 am on October 28, within 24 hours of being alerted to the issue.

The inadvertent error in identifying the committee as "Buck for Congress" rather than "Buck for Colorado" was minor and did not mislead the public. It clearly stated the candidate's name and that he was running for Congress. In the compressed time frame of a campaign these types of errors can occur. Moreover, the campaign responded immediately and corrected this minor error in less than a day.

### Allegations I b-i

The remainder of the allegations in the complaint concern various endorsements, news stories, opinion pieces and blog posts by the Denver Post and the Longmont Times-Call. The complaint

seems to allege that these were advertisements for the Buck campaign rather than news stories and should have been reported as in-kind contributions.

These news stories, endorsements, blog posts and editorials are covered by the press exemption contained in the FECA and were not contributions or expenditures.

Contributions and expenditures do not include any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication unless such facilities are owned or controlled by any political party, political committee or candidate. (52 USC Section 30101). The Commission's regulations state that neither a contribution nor an expenditure result from costs incurred from covering or carrying any news story, commentary or editorial by any broadcasting station (including a cable television operator, programmer or producer, web site, newspaper, magazine, or other periodical publication, including any internet or electronic publication unless the facility is owned or controlled by any political party, political committee or candidate provided it represents a bona fide news account and it part of a general pattern of campaign related news. (11 CFR Section 100.73 and 100.132.))

The Commission has applied the press exemption to the ever-evolving modes of communicating. (See, 2000-13, AO 2003-34, AO 2005-16, AO 2005-19, AO 2007-20, AO 2008-14, AO 2010-08).

To determine if the press exemption applies, the Commission has historically applied a two-step analysis. First, it determines whether the entity engaging in the activity is a press entity. Next, it uses a two-part analysis to determine:

1. Whether the entity is owned or controlled by a political party, political committee or candidate; and
2. Whether the entity is acting as a press entity in conducting the activity at issue (i.e., if it is acting in its legitimate press function). This includes examining whether the entity's materials are available to the general public and whether the materials are comparable in form to those ordinarily issued by the press entity.

In this instance, the entities in question, the Denver Post and the Longmont Times-Call, are newspapers, clearly press entities. Internet blogs run by newspapers would also be press entities.

The next part of the analysis examines whether the press entity in question is owned or controlled by a political party, political committee or candidate. These are both major regional newspapers. While none of the respondents has personal knowledge concerning the ownership of the newspapers in question, Congressman-Elect Buck has no ownership interest in either news organization.

Next, the analysis focuses on whether the press entities in question are acting as press entities in conducting the activities in question. In this instance, the newspapers and blog posts are


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available to the general public. Further, the news stories, endorsement, blog posts and guest editorial are typical of those published by the Denver Post and the Longmont Times-Call.

The frivolous allegations in the complaint filed by the Meyers campaign were simply part of the campaign's strategy to discredit Congressman-Elect Buck and to obtain favorable press coverage. We respectfully request the Commission to take no further action in this matter.

Sincerely,



Cary Davidson

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